

REMARKS**I. Summary of the Office Action and Status of the Application**

This paper is responsive to the Office Action mailed on June 30, 2004. Claims 1-21 are currently pending in this application. Claims 18-21 are currently new. Claim 1-11 are original. Claims 12-17 have been withdrawn and will canceled if remaining claims are allowed. Claims 1-11 and 18-21 remain under consideration, and of these, claims 1, 7, 18, and 21 are independent. No new matter is added.

The Office Action provisionally rejects claims 1-4 and 6-10 under 35 U.S.C. §101 as claiming the same invention as that of co-pending Application No. 09/997,724. The Office Action rejects claims 1, 5, and 6 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent 6,242,125 (Eidler et al.). The Office Action rejects claims 2-4 and 7-10 under 35 U.S.C. §103(a) as being unpatentable over Eidler et al. in view of U.S. 4,628,302 (Barr et al.).

II. Provisional Rejections under 35 U.S.C. §101

The Office Action provisionally rejects claims 1-4 and 6-10 as claiming the same invention as that of co-pending Application No. 09/997,724. (Please note: the Office Action identifies the wrong Application No. and the above identified number is correct). Applicants have expressly abandoned Application No. 09/997,724, a copy of which is attached hereto.

III. Claim Rejections under 35 U.S.C. §102(e)

The Office Action rejects independent claim 1 as being anticipated by Eidler et al. Eidler pertains to a circulation system for a flowing-electrolyte battery including an electrochemical cell, an anolyte reservoir, and a catholyte reservoir. See abstract. The circulation system includes an anolyte pump coupled in fluid flowing relationship to the anolyte reservoir which pumps anolyte from the anolyte reservoir to the at least one electrochemical cell. A catholyte pump is coupled in fluid flowing relationship to the catholyte reservoir and also pumps catholyte to the at least one electrochemical cell. Eidler does not disclose any “means for sensing a fluid leak within the containment member.”

The liquid level sensors 130 (FIG. 8) disclosed in Eidler are “placed in each in each reservoir 15, 17.” See Eidler at column 6, lines 13-16. As is known in the art, a containment

member is not synonymous with a reservoir. A containment member is understood to be similar to a pan; whereby, the pan catches dripping electrolyte, if a leak has occurred. The liquid level sensors 130 disclosed in Eidler are not disposed in a containment member. Eidler's sensors measure the level of electrolyte contained in a reservoir and are disposed therein.

As such, Spiegel does not teach or suggest a "means for sensing a fluid leak within the containment member" which is necessary to anticipate claim 1. Therefore, claim 1 distinguishes over the cited art and should be allowed.

IV. Claim Rejections under 35 U.S.C. §103(a)

The Office Action rejects independent claim 7 as obvious over Eidler in view of Barr. Barr is understood to teach a detector system for sensing the presence, or absence, of electrically-conductive liquid in contact with two probe members. See abstract. The system includes switchable voltage sources to selectively establish a potential across capacitors connected to the probe members, and detection systems for sensing the magnitudes of charges on the capacitors. See abstract. Barr concerns itself with fluid level sensors and is silent with respect to leak detection. Barr does not disclose "means for sensing a fluid leak within one of the containment members."

Applicants respectfully contend that the cited references do not teach or suggest all the claim limitations, as required by MPEP 2143. As indicated above, Eidler does not disclose any leak sensor within a containment member. The present invention comprises a sensor disposed in a containment member. At least in part, the sensor measures the presence of electrolyte and other fluids. Eidler's liquid level sensors are disposed in a reservoir and detect electrolytic fluid level in the reservoir.

Accordingly, neither Eidler nor Barr teach or suggest "means for sensing a fluid leak within one of the containment members," as required by claim 7. Therefore, claim 7 distinguishes over the cited art and should be allowed.

Since claims 2-6 and 8-11 depend, directly or indirectly, from independent claims 1 and 7, claims 2-6 and 8-11 should be allowed for at least the same reasons as provided for claims 1 and 7.

V. Conclusion

For at least the reasons stated in these Remarks, Applicants believe all claims remaining under consideration to be in allowable condition. Applicants reserve the right to argue other distinctions if it ever becomes necessary. A favorable examination result is earnestly solicited. Questions or issues arising in this matter should be directed to Applicants' representatives, listed below.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-1945, under Order No. PPCO-P01-015 from which the undersigned is authorized to draw.

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Respectfully submitted,

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